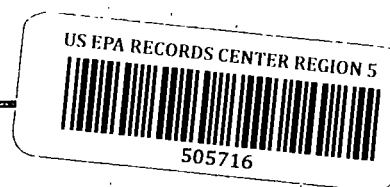


Patterson, Leslie



From: Tanaka, Joan
Sent: Friday, April 18, 2014 6:16 AM
To: Adler, Kevn; Patterson, Leslie
Subject: Fw: SDD - NOT Tremont!

Please see below and schedule a briefing. Thanks.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Whitehouse, Peter <Peter.Whitehouse@epa.ohio.gov>
Sent: Thursday, April 17, 2014 1:46 PM
To: Tanaka, Joan
Cc: Kavalec, Tiffani; Buthker, Bonnie; Smith, Madelyn
Subject: SDD - NOT Tremont!

Joan:

If there wasn't enough going on, we apparently have an issue brewing at South Dayton Dump.

It is our understanding that EPA will be re-negotiating the 2006 consent order to try and get out from under the issues that the 2010 dispute resolution has created (e.g., along with splitting the landfill in half, it also allows the PRPs to divorce components of the presumptive remedy from the OU1 RI/FS so that only a landfill cap remedy will be evaluated for OU1). In order to re-open the consent order, apparently EPA must first approve the OU2 RI/FS WP. In order to approve the OU2 RI/FS WP as written, it seems Ohio EPA must overlook the applicability of the ARAR until the OU2 risk assessment.

Attempts by our site coordinator to reach agreement with the RPM on other issues with the OU2 RI/FS WP have also been unsuccessful. In addition to not acknowledging the ARAR, USEPA is prepared to approve the OU2 RI/FS WP without a ground water investigation component. In the 2010 dispute resolution, all ground water investigations were moved to OU2; however, the OU2 RI/FS WP does not propose to take any ground water samples. Instead, ground water investigations are either entirely absent or are dependent upon other investigations.

These issues have been communicated to the RPM and her direct supervisor. However, EPA has indicated they will move forward with the work for OU2.

The following outlines the specific issues Ohio EPA has been having with EPA regarding the applicability of our solid waste closure requirements to the licensed landfill area of South Dayton Dump and Landfill:

- In 2010 USEPA documented in their dispute resolution that the central and northern parcels of SDD&L could be investigated for a landfill cap per the CERCLA municipal landfill presumptive remedy approach (OU1). The southern parcels of SDD&L would then be investigated per a traditional RI/FS (OU2).
- In splitting the landfill, they split the area that had been originally licensed as a solid waste landfill. Originally 45 acres were licensed by Alcine Grilliot in 1968 when solid waste landfills were first required to be licensed. At the time of licensing, Alcine Grilliot identified 70 acres of land, 25 of which he had already landfilled to grade and had built buildings on. These 25 acres covered the northern part of the 70 acres. The remaining 45 acres were needed to be filled and covered the central and southern parcels of the Site.
- South Dayton Dump and Landfill never went through closure per solid waste rules and therefore is still considered to be operating. The licensed portion of the landfill is subject to current closure requirements.

Current solid waste closure rules have been determined to be an applicable ARAR for the central and northern landfill parcels of OU1. Per the streamlined risk assessment for the central and northern parcels, the ARAR has been triggered. The ARAR for solid waste closure applies to the *entire licensed area*.

- The issue arises, though, in that in 2010, when USEPA allowed the landfill to be split in half for investigation purposes, *they split the licensed area*.
- USEPA has stated that in order for the ARAR to be triggered for the southern landfill parcels of OU2, risk must again be shown. USEPA has stated that they do not have authority to take action at a site unless they have shown risk. USEPA has stated that they must establish unacceptable risk before determining ARARs for OU2.

It is Ohio's position that the risk of the landfill has already been shown and the ARAR for capping the licensed landfill has already been triggered per the work done on the landfill parcels of OU1. Therefore, showing risk for the southern parcels is not necessary. The arbitrary line USEPA drew in the 2010 dispute resolution doesn't change how the ARAR applies as it applies to the entire licensed area – which includes the southern landfill parcels of OU2.

Obviously Tremont is a bigger issue at present, but I'd like to discuss before the RPM moves forward, if possible. I will be at ASTSWMO next week, are you going? perhaps we can talk then? Otherwise I will be back in the office on the 25th.

Pete